



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of February Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.3044 of 2019

1.ESAKKIMUTHU
2.MURUGAN

... PETITIONERS/ ACCUSED
1 and 2

Vs

THE STATE BY
THE INSPECTOR OF POLICE
MOOLAKARAIPATTI POLICE STATION,
TIRUNELVELI DISTRICT.
Crime No.37/2019

... RESPONDENT/ COMPLAINANT

For Petitioners : Mr.D.VENKATESH Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are apprehending arrest at the hands of the respondent police for the offence punishable under Sections 379 of IPC in Crime No.37 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that four gunny bags unit of sand has been illegally transported by the petitioners.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. However, on instruction, he would further submit that the petitioners are ready to deposit any amount to the District Mineral Foundation Trust without prejudice to his rights.

4. The learned Government Advocate(Crl.side) appearing for the State submitted that the vehicle was seized by the respondent police and there is no previous case pending against the petitioners. He further submitted that if the person is caught with illegal sand in the mining area, he has to be directed to deposit the conditional amount to the credit of Crime number. However, in view of information of District Mineral Foundation Trust in each district, the amount may be deposited to the credit of the said



Trust for rehabilitation in the areas affected by illegal sand mining.

5. In view of the rehabilitation undertaken by the State Government under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner is directed to make a non refundable deposit of Rs.5,000/- (Rupees Five thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. This amount so deposited shall be utilised by the Trust for rehabilitation works.

6. It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

7. Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate(Crl.side), I am inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Nanguneri, on condition that the petitioners shall execute a bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled.

(ii) the petitioners shall make a non refundable deposit of Rs.10,000/- (Rupees Ten thousand only) through demand draft to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioners;

(iii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;



(iv) the petitioners shall report before the respondent police at 10.30.a.m., until further orders.

(v) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(vi) the petitioners shall not abscond either during investigation or trial;

(vii) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(viii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

(ix) the petitioners are directed to repair the riverbed which has been damaged by them while taking sand as alleged by the prosecution.

sd/-
27/02/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.THE JUDICIAL MAGISTRATE, NANGUNERI.
- 2.THE CHEIF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
MOOLAKARAIPATTI POLICE STATION, TIRUNELVELI DISTRICT.
- 4.THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST, TIRUNELVELI DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.D.VENKATESH Advocate SR.No.4051

ORDER
IN
CRL OP(MD) No.3044 of 2019
Date :27/02/2019